

AARON D. FORD
Attorney General
ALEXANDER J. SMITH (Bar No. 15484C)
Deputy Attorney General
State of Nevada
Office of the Attorney General
555 East Washington Avenue
Suite 3900
Las Vegas, Nevada 89101
(702) 486-4070 (phone)
(702) 486-3773 (fax)
Email: ajsmith@ag.nv.gov

*Attorneys for Defendant
Michael Minev*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KENTRELL D. WELCH,

Plaintiff,

v.

MICHAEL MINOR, *et al.*,

Defendants.

Case No. 2:19-cv-00480-JAD-BNW

**DEFENDANT'S MOTION FOR A
FORTY-FIVE DAY EXTENSION OF
TIME TO ANSWER OR RESPOND
TO THE COMPLAINT
(FIRST REQUEST)**

Defendant Michael Minev, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Alexander J. Smith, Deputy Attorney General, of the State of Nevada, Office of the Attorney General, hereby moves for a forty-five day extension of time to answer or respond to the first amended complaint (ECF No. 77). A November 6, 2020 order (ECF No. 76) granted Plaintiff Kentrell D. Welch's unopposed motion (ECF No. 68) to amend the complaint. The deadline to answer or respond to the complaint is November 27, 2020, but for the reasons outlined below, Defendant requests a forty-five day extension of time to answer or respond to the first amended complaint.

///

1 In the first week of November, Attorney Smith was assigned well over half a dozen
 2 new cases in addition to his almost four-dozen or so others after his colleague, Deputy
 3 Attorney General Matthew Feeley, recently departed the division. Some of these demanded
 4 immediate responses. Also, Attorney Smith has several summary judgment motion
 5 deadlines within the next forty days, and within the last two weeks, all Attorney General's
 6 Office staff have been ordered to stay at home because of the Coronavirus spike; Attorney
 7 Smith has had delayed access to the materials he needs in order to diligently defend all his
 8 cases. In order to familiarize himself with the case and to respond adequately and
 9 thoroughly, Attorney Smith needs further time to prepare a thorough response to the
 10 complaint.¹

11 Defendant therefore respectfully moves under Rule 6(b)(1), Federal Rules of Civil
 12 Procedure, for a forty-five day extension of time to respond. This will take the deadline to
 13 answer or respond to the complaint from November 27, 2020, to January 11, 2020; good
 14 cause exists for granting this motion, and Welch will not be prejudiced by this short delay.

15 **I. LAW AND ARGUMENT**

16 **A. Rule 6(b), Federal Rules Of Civil Procedure**

17 Rule 6(b)(1), Federal Rules of Civil Procedure, governs extensions of time and states:

18 When an act may or must be done within a specified time, the
 19 court may, for good cause, extend the time: (A) with or without
 20 motion or notice if the court acts, or if a request is made, before
 21 the original time or its extension expires; or (B) on motion made
 after the time has expired if the party failed to act because of
 excusable neglect.

22 If additional time for any purpose is needed, the proper procedure is to present a
 23 request for extension of time before the time fixed has expired. *Canup v. Mississippi Val.*
 24 *Barge Line Co.*, 31 F.R.D. 282 (W.D.Pa. 1962). An extension of time may always be sought
 25 ///

26 ¹ The court informed (ECF No. 76) Defendant that it would not perform a second
 27 screening of Welch's first amended complaint. Defendant would benefit considerably from
 28 the requested extension of time in order to respond adequately to Welch's somewhat
 lengthy handwritten complaint, which adds many new defendants and new causes of
 action.

and is usually granted on a showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947).

B. Local Rules IA 6-1 And 26-3.

LR IA 6-1 requires that a motion to extend time must state the reasons for the extension requested, and LR 26-3 requires that a motion to extend any date set by the discovery plan, scheduling order, or other order must, as well as satisfying the requirements of LR IA 6-1, demonstrate good cause for the extension.²

C. Good Cause Exists, Thus An Order Should Grant Defendants' Motion For An Extension Of Time To Answer Or Respond To The Complaint

Here, good cause exists for extending the deadline to answer or respond to the complaint by forty-five days. Defendant intends to move to dismiss; by extending the deadline, Welch is under no danger of prejudice, and the delay is short.

Some of Attorney Smith's cases that he inherited from his predecessor have required immediate, lengthy attention, in addition to his usual caseload. Second, Attorney Smith started with the Nevada Attorney General's Office approximately two months ago and was only recently admitted to the Federal District Court (late September 2020). Upon commencement of his employment, Attorney Smith became counsel for the defense in over forty actions (now approximately fifty) and has worked assiduously and expeditiously to review each case file. Because of Attorney Smith having spent an inordinate amount of time satisfying several imminent deadlines in the recently assigned cases, Attorney Smith needs further time to adequately brief the court on why Welch's complaint is legally deficient.

Bearing in mind the numerous technological difficulties caused by the State of Nevada moving to working from home because of the COVID-19 crisis, Attorney Smith is

///

² LR 26-3 lists four factors that are considered upon adjudication of a motion to extend a discovery deadline or to reopen discovery, but these are not considered in this motion because Defendant neither moves to extend a discovery deadline nor moves to reopen discovery.

working diligently to defend this action.³ In sum, Attorney Smith needs additional time in order to adequately move to dismiss.

II. CONCLUSION

For the reasons stated above, good cause exists for the granting of an extension, and Defendant respectfully moves for an extension of the deadline to answer or respond to the complaint from November 27, 2020, to January 11, 2021.

DATED this 24th day of November, 2020.

AARON D. FORD
Attorney General

By: /s/ Alexander J. Smith
ALEXANDER J. SMITH (Bar No. 15484C)
Deputy Attorney General

Attorneys for Defendant

IT IS SO ORDERED

DATED: 12:38 pm, December 01, 2020



BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

³ Two weeks ago, all Attorney General's Office employees were ordered to work from home because of Governor Sisolak's "Stay at Home 2.0" plan. Following Sisolak's November 22, 2020 announcement telling all Nevadans to stay at home wherever possible, this has been extended for another three weeks.